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Written submission by the Commission on Human Rights of the Philippines*

Note by the Secretariat

The Secretariat of the Human Rights Council hereby transmits the communication submitted by the Commission on Human Rights of the Philippines, reproduced below in accordance with rule 7(b) of the rules of procedures described in the annex to Council resolution 5/1, according to which participation of national human rights institutions is to be based on arrangements and practices agreed upon by the Commission on Human Rights, including resolution 2005/74 of 20 April 2005.

* National human rights institution with A status accreditation from the Global Alliance of National Institutions for the Promotion and Protection of Human Rights.

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Inputs of the Commission on Human Rights of the Philippines for the Annual High-Level Panel discussion on human rights mainstreaming on the theme "The promotion and protection of human rights in the light of the Universal periodic review mechanism: challenges and opportunities."**

1. The following inputs from the Commission on Human Rights of the Philippines (hereinafter the "Commission")[1] took into consideration local and international reports from government, civil society, the media, and international non-government organizations. This submission also utilized the Commission's own documentation of independent monitoring activities and statements all of which were subjected to the internal deliberations of the Commission En Banc.

1st to 3rd Cycles of the Universal Periodic Review: Philippines[2]

2. The Philippines, as founding member of the UN,[3] and member of the Human Rights Council,[4] has went through three cycles of the UPR. The cycle for the Philippines began in 2008 when it was reviewed at the Human Rights Council on 11 April 2008. Forty-one (41) States[5] made their remarks to the Philippines, with a total of seventeen (17) (clustered) recommendations.

3. The Philippines was reviewed once again for the second cycle of the UPR at the 13th session of the Working Group on 29 May 2012. The review and interactive dialogue looked back at the human rights record of the country from April 2008 onwards, and checked on what recommendations have been implemented, the gaps remaining in human rights promotion and protection, and the steps necessary to address human rights concerns and violations. During the interactive dialogue, 64 States[6] made statements, with a total of 164

** Circulated as received, in the language of submission only.

[1] As the National Human Rights Institution (NHRI) of the Philippines, the Commission on Human Rights of has the mandate vested by the 1987 Philippine Constitution and the Paris Principles to promote and protect the full range of human rights including civil and political rights, and economic, social and cultural rights. It has the responsibility to regularly report and monitor human rights situations and violations, and recommend steps in advancing the realization of human rights and dignity of all. The Commission has "A"-status accreditation from the Sub-Committee for Accreditation of the Global Alliance of National Human Rights Institutions (GANHRI).

[2] Commission on Human Rights of the Philippines, Human Rights Advisory on the Accepted and Noted Recommendations by the Philippines During the Third Cycle of the Universal Periodic Review (CHR A2018-001), 2018.

[3] United Nations Member States, https://www.un.org/press/en/2006/org1469.doc.htm (Last Accessed 27 May 2017).

[4] Current Membership of the Human Rights Council, 1 January - 31 December 2017, http://www.ohchr.org/EN/HRBodies/HRC/Pages/CurrentMembers.aspx (Last Accessed: 27 May 2017).

[5] New Zealand, Pakistan, India, Singapore, China, Canada, Slovenia, Cuba, The Democratic People's Republic of Korea, Turkey, the Holy See, Italy, France, Thailand, Norway, Japan, Algeria, the Syrian Arab Republic, Tunisia, Latvia, Guatemala, Sudan, Egypt, the Republic of Korea, the Russian Federation, Australia, Switzerland, the United Kingdom, Belarus, Cameroon, Azerbaijan, the Netherlands, the United States of America, Palestine, Bangladesh, Nigeria, the Islamic Republic of Iran, Brazil, Mexico, Indonesia, Sri Lanka.

[6] The Republic of Korea, the Russian Federation, the Kingdom of Saudi Arabia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Timor-Leste, Trinidad and Tobago, Turkey, United Arab Emirates, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Uruguay, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam, Argentina, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Belarus, Belgium, Brazil, Brunei

recommendations. In the adoption of the Working Group report,[7] recommendations were clustered, with a total of 90, in which the Philippines accepted 62 and 28 recommendations remained pending.[8]

4. The Philippines reported and was reviewed for the third cycle at the 27th session of the UPR Working Group through an interactive dialogue on 8 May 2017.[9] Ninety-five (95) States made statements at the interactive dialogue. A total of 257 recommendations were made. On 22 September 2017, at the 36th Session of the Human Rights Council, the Philippines responded to the recommendations, with the Human Rights Council adopting the outcome and the report of the UPR Working Group[10] Of the 257 recommendations received by the Philippine government, at total of 103 were accepted, 99 were noted and 55 were not fully supported.

5. The Philippine government stated that the recommendations it has accepted are those that recognize and respect the State's previous or current initiatives in implementing such recommendations. While the Commission welcomed the acceptance of the 103 recommendations, it expressed concern that most of the accepted recommendations are considerably general and broad in form, with no specific actions requested from the State. They merely state the obligation "to continue, strengthen, ensure and guarantee," without identifying "how" to carry on with implementation. On the other hand, the recommendations noted and not fully supported were more adequate in terms of actions that the State must take to address certain human rights violations and concerns, the culture of impunity, and challenges in accessing justice in the country.

6. As regards the 99 recommendations that 'cannot be supported by the Philippine Government', the State expressed its reservations stating that such are recommendations which the State cannot guarantee or commit to as *'the results of processes required to implement them are beyond the sole control of any of the branches of the government'*. Most of the recommendations noted by the State pertain to legislative action which, according to the State, *"requires consultative processes with stakeholders"* and thus cannot be immediately implemented or acted upon.[11]

7. Interestingly, recommendations related to legislative action, such as the establishment of the National Preventive Mechanism, as provided for the Optional Protocol to the Convention Against Torture (ratified by the State on April 2012), were accepted in the second cycle but were only noted in the most recent one.[12]

Darussalam, Cambodia, Canada, Chile, Cuba, Denmark, Ecuador, Egypt, France, Germany, the Holy See, Hungary, India, Indonesia, Iraq, Ireland, Japan, the Lao People's Democratic Republic, Latvia, Liechtenstein, Madagascar, Malaysia, Mexico, Qatar, the Republic of the Union of Myanmar, the Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Palestine, Portugal, Morocco.

[7] Adoption in plenary of the Human Rights Council session was 20 September 2012.

[8] Philippines responses to recommendations, 11 August 2014, https://www.upr-info.org/sites/default/files/document/philippines/session_13_-_may_2012/recommendations_to_philippines_2012.pdf (Last accessed: 27 May 2017).

[9] For complete reports, webcast and documentation on the Philippines, please see here: http://www.ohchr.org/EN/HRBodies/UPR/Pages/PHIndex.aspx.

[10] Report of the Working Group on the Universal Periodic Review: Philippines, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, Human Rights Council Thirty-sixth session, 11-29 September 2017, Agenda item 6 Universal Periodic Review, page 2.

[11] To read the recommendations in full, please see UPR Working Group Report here: http://www.ohchr.org/EN/HRBodies/UPR/Pages/PHIndex.aspx.

[12] See second cycle documentation here:

8. With respect to the 55 recommendations not fully supported by the State, the State party expressed that the reason for its non-acceptance is that "*Most of the recommendations were sweeping, vague and even contradictory, especially in the context of the Philippines' democratic processes.*" The said recommendations were comprised of those calling out the State Party to: respect its obligations under international law and refraining from the reintroduction of the death penalty; facilitate impartial, prompt and independent investigation of extrajudicial killings, accountability of perpetrators and incitement to violence in the context of the campaign against illegal drugs; extend standing invitations to Special Procedures, and such other recommendations similar in nature.

Challenges and Opportunities

9. Although it is not a perfect mechanism, the UPR is a tremendous step forward for human rights advocacy, as there is no other process at the international level that provides every single UN member country an opportunity to declare the actions it has taken in the promotion and protection of human rights. The UPR also ensures equal treatment of States under review when their human rights situations are being assessed.[13]

10. The UPR should be seen as a mechanism for self-assessment which allows States to share its achievements and determine existing gaps in the provision of services for the protection and promotion of human rights. It is also a venue for strengthening collaboration and partnership between State Parties as actors for implementation. Given these opportunities, the UPR process should not be viewed as an adversarial mechanism but rather a "self-check" for States that can assist them in monitoring the progress of their efforts to promote, protect and fulfill human rights.

11. Further, through the UPR process, States are given the opportunity to engage with stakeholders such as civil society organizations (CSOs), National Human Rights Institutions (NHRIs), the private sector and the media, through consultative dialogues and long-term advocacy. This convergence serves as a pillar for strong cooperation towards the ends of ensuring the protection and promotion of human rights in all sectors.

12. During the 3rd cycle UPR, the Philippine Government was seemingly held back by reservations in accepting recommendations from Recommending States. As observed, while the State Party accepted 103 recommendations, such are of general nature which merely directs the State to recognize the protection of vulnerable groups. As regards the recommendations which specify and identify specific measures to guarantee protection, such were either only noted or not supported outright.

13. While the Commission understands that the Government has the discretion, within the bounds of its human rights obligations, to determine which recommendations are to be accepted or not, it should be noted that the Government has the onus to specify the reasons for not fully supporting particular recommendations that further the cause of human rights compliance on each account. A statement of a general nature would not suffice. Otherwise, without adequate explanation, the Government runs the risk of not complying with its international obligations on human rights.

14. The Commission stresses that these recommendations support the Philippines in adhering to its international human rights commitments, and promote the immediate resolution of issues of civil and political rights violations and the progressive realization of economic, social, and cultural rights.

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http://www.ohchr.org/EN/HRBodies/UPR/Pages/PHIndex.aspx or refer to the database of UPR Info: https://www.upr-info.org/database/.

[13] OHCHR, "The Universal Periodic Review" http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx (Last Accessed: 27 May 2017).

Recommendations:

15. In an advisory by the Commission on Human Rights of the Philippines issued last January 2018,[14] it raised the following recommendations to the State Party with respect to the recommendations accepted and noted by the same during the 3rd Cycle Universal Periodic Review:

- On the accepted recommendations, work towards achieving them;
- On the recommendations that were not accepted or fully supported, reconsider the recommendations noted from the third UPR cycle, and re-evaluate them – with the endview of accepting them – as they support the resolution of human rights violations and issues in the country;
- Align the recommendations with the implementation of the 2016 concluding observations of UN Treaty Bodies and the 2030 Sustainable Development Goals;
- End impunity and adhere to the rule of law and due process in the campaign against criminality;
- Ensure accountability, transparency and cooperation in investigations of human rights violations, especially extra judicial killings, torture and enforced disappearances;
- Prosecute all perpetrators, be they civilian or members of law enforcement,
- Honor its human rights obligations particularly the ICCPR and its Second Optional Protocol Aiming at the Abolition of the Death Penalty, Convention on the Rights of the Child and pass, among critical human rights legislations, a comprehensive anti-discrimination bill;
- Address and eliminate discrimination and violations against at-risk groups including women, children, LGBTI persons, persons with diverse SOGIE, indigenous peoples, persons with disabilities, migrant workers and members of their families, internally displaced persons, and whistleblowers and witnesses of crimes and atrocities;
- Enable national and international oversight mechanisms to perform their mandates;
- Respect the Constitutional mandate of the Commission on Human Rights, the Supreme Court and the Office of the Ombudsman as they perform their respective roles in the ensuring a stable democratic society; and
- Reconvene the UPR Tripartite Monitoring Body (UPR-TMB), which serves as the watchdog on the implementation of UPR recommendations.[15]

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[14] "On the Accepted and Noted Recommendations by the Philippines During the Third Cycle of the Universal Periodic Review," CHR A2018-001. https://drive.google.com/file/d/0B4mlNsxbJiCWTFlmSDZ6WW5FeW8wMkdaQzhzRm5fcW1RY0I w/view?usp=sharing

[15] The Presidential Human Right Committee is a convener of the UPR-TMB, together with the Commission and civil society partners. Formed in 2013 through the assistance of the United Nations Development Program, the UPR-TMB aims to: 1) track progress and assess implementation of all UPR recommendations by the government; 2) identify within the scope of each UPR recommendation, the baselines action points, indicators; and best practices; 3) determine challenges and constraints in the implementation of the recommendations; 4) surface emerging human rights issues in the context of latest developments occurring in the country; and 5) provide recommendations in strengthening implementation and improvement of human rights conditions on the ground.